

small businesses. (i) The Commission is required to consider the size of a business in relation to the amount of the proposed penalty. This factor reflects the relationship between the size of the business of the person charged and the deterrent effect of civil penalties. In considering business “size,” the Commission may look to several factors including the firm’s number of employees, net worth, and annual sales. The Commission may be guided, where appropriate, by any relevant financial factors to help determine a violator’s ability to pay a proposed penalty including: liquidity factors; solvency factors; and profitability factors.

(ii) The statute requires the Commission to consider how to mitigate the adverse economic impacts on small business violators *only* if those impacts would be “undue.” What the Commission considers to be “undue” will vary based upon the violator’s business size and financial condition as well as the nature, circumstances, extent and gravity of the violation(s). When considering how to mitigate undue adverse economic consequences, the Commission may also follow its Small Business Enforcement Policy set forth at 16 CFR 1020.5.

(b) *Other factors as appropriate.* In determining the amount of any civil penalty to be pursued when a knowing violation of the prohibited acts section of the CPSA, FHSA, or FFA has occurred, the Commission may consider, where appropriate, other factors in addition to those listed in the statutes. Both the Commission and the violator are free to raise any other factors they believe are relevant in determining an appropriate penalty amount. Which, if any, additional factors the Commission considers in determining an appropriate penalty amount, including but not limited to those listed above, will be unique to each case. In all civil penalty matters, any additional factors beyond those enumerated in the statute that the Commission takes into consideration for purposes of determining an appropriate civil penalty amount will be made known to and discussed with the violator. Additional factors which may be considered in an individual case include, but are not limited to, the following:

(1) *Safety/Compliance Program and/or System:* The Commission may consider, for example, whether a violator had at the time of the violation, a reasonable program/or system for collecting and analyzing information related to safety issues, including incident reports, lawsuits, warranty claims, and safety-related issues related to repairs or returns; and whether a violator conducted adequate and relevant pre-market and production testing of the product(s) at issue.

(2) *History of noncompliance:* The Commission may consider if the violator has a history of noncompliance with the CPSC and whether a higher penalty should be assessed for repeated non-compliance.

(3) *Economic Gain from Noncompliance:* The Commission may consider whether a firm benefitted economically from a delay in complying with statutory and regulatory requirements.

(4) *Failure of the violator to respond in a timely and complete fashion to the Commission’s requests for information or remedial action:* The Commission may consider whether a violator’s failure to respond in a timely and complete fashion to requests from the Commission for information or for remedial action should increase the amount of the penalty.

§ 1119.5 Enforcement notification.

A potential violator will be informed in writing that the Commission believes it is subject to a possible civil penalty. The violator will be able to submit evidence and arguments that it is not subject to such a penalty.

PART 1130—REQUIREMENTS FOR CONSUMER REGISTRATION OF DURABLE INFANT OR TODDLER PRODUCTS (Eff. June 28, 2010)

EFFECTIVE DATE NOTE: At 74 FR 68676, Dec. 29, 2009, part 1130 was added, effective June 28, 2010.

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1130.7 Requirements for text of registration form.

1130.8 Requirements for website registration or alternative email registration.

1130.9 Recordkeeping and notification requirements.

FIGURE 1 TO PART 1130—FRONT OF REGISTRATION FORM

FIGURE 2 TO PART 1130—BACK OF REGISTRATION FORM

AUTHORITY: 15 U.S.C. 2056a, 2065(b).

SOURCE: 74 FR 68676, Dec. 29, 2009, unless otherwise noted.

§ 1130.1 Purpose, scope, and effective date.

(a) *Purpose.* This part prescribes a consumer product safety rule establishing requirements for consumer registration of durable infant or toddler products. These requirements are intended to improve the effectiveness of recalls of, and safety alerts regarding, such products.

(b) *Scope.* Part 1130 applies to manufacturers, including importers, of durable infant or toddler products, as defined in § 1130.2(a). It does not apply to infant or child restraint systems intended for use in automobiles that are covered by the registration program of the National Highway Traffic and Safety Administration (NHTSA) at 49 CFR 571.213, or to products that comprise a travel system, and are sold with a child restraint system that is covered by the NHTSA registration program at 49 CFR 571.213.

(c) *Compliance Date.* Compliance with this part 1130 shall be required on June 28, 2010 for the following products: full-size cribs and nonfull-size cribs; toddler beds; high chairs, booster chairs, and hook-on chairs; bath seats; gates and other enclosures for confining a child; play yards; stationary activity centers; infant carriers; strollers; walkers; swings; and bassinets and cradles. Compliance with this part 1130 shall be required on December 29, 2010 for the following products: Children's folding chairs, changing tables, infant bouncers, infant bath tubs, bed rails and infant slings. The rule shall apply to durable infant or toddler products, as defined in § 1130.2(a), that are manufactured on or after those dates.

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§ 1130.2 Definitions.

In addition to the definitions given in section 3 of the Consumer Product Safety Act (15 U.S.C. 2052), the following definitions apply:

(a) *Durable infant or toddler product* means the following products, including combinations thereof:

- (1) Full-size cribs and non-full-size cribs;
- (2) Toddler beds;
- (3) High chairs, booster seats, and hook-on chairs;
- (4) Bath seats;
- (5) Gates and other enclosures for confining a child;
- (6) Play yards;
- (7) Stationary activity centers;
- (8) Infant carriers;
- (9) Strollers;
- (10) Walkers;
- (11) Swings; and
- (12) Bassinets and cradles;
- (13) Children's folding chairs;
- (14) Changing tables;
- (15) Infant bouncers;
- (16) Infant bathtubs;
- (17) Bed rails;
- (18) Infant slings.

(b) *Manufacturer*, for purposes of this part, in the case of a product produced within the United States, means the domestic manufacturer of the product, and in the case of an imported product, means the importer of the product.

(c) *Product recall* means action taken pursuant to sections 12, 15(c) or 15(d) of the CPSCA (15 U.S.C. 2061, 2054(c), or 2064(d)), and action taken pursuant to a corrective action plan implemented by a company in cooperation with the Commission, where the firm is conducting one or more of the following: repair of the product; replacement of the product; or refund of the purchase price of the product.

(d) *Safety alert* means notice or warning of a potential problem with an individual product or class of products so that consumers and other users of the affected products respond accordingly to reduce or eliminate the potential for injury.

§ 1130.3 General requirements.

(a) Each manufacturer of a durable infant or toddler product shall:

- (1) Provide consumers with a post-age-paid consumer registration form

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that meets the requirements of this part 1130 with each such product;

(2) Maintain a record in accordance with the requirements set forth in § 1130.9 of the contact information (names, addresses, e-mail addresses, and telephone numbers) of consumers who register their products with the manufacturer under this part 1130;

(3) Permanently place the manufacturer name and contact information, model name and number, and the date of manufacture on each durable infant or toddler product in accordance with the requirements set forth in § 1130.4.

(b) Consumer information collected by a manufacturer pursuant to the requirements of this part 1130 shall not be used by the manufacturer, nor disseminated by the manufacturer to any other party, for any purpose other than notification to such consumer in the event of a product recall or safety alert.

§ 1130.4 Identification on the product.

(a) Each durable infant or toddler product shall be permanently marked with the manufacturer name, and contact information (U.S. address and telephone number, toll free if available) model name and number, and date of manufacture.

(1) If the manufacturer regularly uses only a model name or a model number, but not both, to identify the product, he/she may provide only the model name or number rather than creating a model name or number for the sole purpose of this part 1130.

(2) If the manufacturer regularly identifies the product by a product identification number ("PIN") or other similar identifying number rather than a model number, he/she may provide that identifying number instead of a model number.

(3) The date referred to in paragraph (a) of this section shall include the month and year of manufacture and can be stated in code.

(4) A permanent mark is one that can reasonably be expected to remain on the product during the useful life of the product.

(b) The information required by this section shall be in English, legible, and in a location that is conspicuous to the consumer.

(c) The information required by this section may be combined with other information marked on the product.

§ 1130.5 Requirements for registration forms.

The registration form required under § 1130.3(a)(1) shall:

(a) Comply with the format and text requirements set forth in §§ 1130.6 and 1130.7 as shown in figures 1 and 2 of this part;

(b) State all information required by this part 1130 in the English language;

(c) Be attached to the surface of each durable infant or toddler product so that, as a practical matter, the consumer must notice and handle the form after purchasing the product;

(d) Include the manufacturer's name, model name and number for the product, and the date of manufacture;

(e) Include an option for consumers to register through the Internet;

(f) Include the statement required in § 1130.7(a) that information provided by the consumer shall not be used for any purpose other than to facilitate a recall of or safety alert regarding that product.

§ 1130.6 Requirements for format of registration forms.

(a) *Size of form.* The form shall be at least the size of two standard post cards connected with perforation for later separation, so that each of the two portions is at least 3½ inches high by 5 inches wide by 0.007 inches thick.

(b) *Layout of form.* (1) General. The form shall consist of four parts: Top and bottom, divided by perforations for easy separation, and front and back.

(2) *Top of form.* The top portion of the form is to be retained by the consumer. The front top portion shall provide the purpose statement set forth in § 1130.7(a). The back of the top portion shall provide the manufacturer's contact information as required in § 1130.7(b).

(3) *Bottom of form.* The bottom portion of the form is to be returned to the manufacturer. The bottom front panel shall have blocks for the consumer to provide his/her contact information as required in § 1130.7(c). Below the consumer contact information

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shall be product information as required in § 1130.7(d) which may be printed on the form or provided on a pre-printed label placed on the form by the manufacturer. The back of the bottom portion of the form shall be pre-addressed and postage-paid with the manufacturer's name and mailing address where registration information is to be collected.

(c) *Font size and typeface.* The registration form shall use bold black typeface. The size of the type shall be at least 12-point for the purpose statement required in § 1130.7(a) and no less than 10-point for the other information in the registration form. The title of the purpose statement shall be in all capitals. All other information shall be in capital and lower case type.

§ 1130.7 Requirements for text of registration form.

(a) *Purpose statement.* The front top portion of each form shall state: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL. We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail this card or visit our online registration at <http://www.websitename.com>." Manufacturers that do not have a Web site may provide an email address and state at the end of the purpose statement: "To register your product, please complete and mail this card or email your contact information, the model name and number and date of manufacture of the product as provided on this card to: name@firmname.com".

(b) *Manufacturer and product information.* The back of the top portion of the form shall state the manufacturer's name and contact information (a U.S. mailing address, a telephone number, toll free if available), Web site address, product model name and number (or other identifier as described in § 1130.4(a)(1) and (2)), and manufacture date of the product.

(c) *Consumer information.* The bottom front portion of the form shall have blocks for the consumer to provide his/her name, address, telephone number, and email address. These blocks shall

be 5 mm wide and 7 mm high, with as many blocks as possible to fill the width of the card allowing for normal printing practices.

(d) *Product information.* The following product information shall be provided on the back of the bottom portion of the form below the blocks for customer information printed directly on the form or on a pre-printed label that is applied to the form: The manufacturer's name, the model name and number (or other identifier as described in § 1130.4(a)(1) and (2)), and the date of manufacture of the product. A rectangular box shall be placed around the model name, model number and manufacture date.

§ 1130.8 Requirements for Web site registration or alternative e-mail registration.

(a) *Link to registration page.* The manufacturer's Web site, or other Web site established for the purpose of registration under this part 1130, shall be designed with a link clearly identified on the main web page that goes directly to "Product Registration."

(b) *Purpose statement.* The registration page shall have the following statement at the top of the page: "PRODUCT REGISTRATION FOR SAFETY ALERT OR RECALL ONLY. We will use the information provided on this page only to contact you if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. If you register on this Web site you do not need to fill out the card that came with your product."

(c) *Content of registration page.* The Web site registration page shall request only the consumer's name, address, telephone number, e-mail address, product model name and number, and the date of manufacture. The consumer's telephone number and e-mail address shall not be required for the consumer to submit the registration form. No other information shall appear on the electronic registration form, except for identification of the manufacturer or a link to the manufacturer's home page, a field to confirm submission, and a prompt to indicate any incomplete or invalid fields before submission. Accessing the electronic

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registration form shall not cause additional screens or electronic banners to appear.

(d) *Alternative for manufacturers without a Web site.* A manufacturer that lacks a Web site shall provide for consumers to register their product through e-mail. Such e-mail addresses shall be set up to provide an automatic reply to confirm receipt of the consumer's registration information.

§ 1130.9 Recordkeeping and notification requirements.

(a) Each manufacturer of a durable infant or toddler product shall main-

tain a record of registrants for each product manufactured that includes all of the information provided by each consumer registered.


(b) Each manufacturer of a durable infant or toddler product shall use the information provided by the registrant to notify the registrant in the event of a voluntary or involuntary recall of, or safety alert regarding, such product.

(c) Each manufacturer of a durable infant or toddler product shall maintain a record of the information provided by the registrant for a period of not less than 6 years after the date of manufacture of the product.

**PRODUCT REGISTRATION FOR
SAFETY ALERT OR RECALL ONLY**

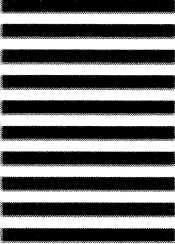
We will use the information provided on this card to contact you only if there is a safety alert or recall for this product. We will not sell, rent, or share your personal information. To register your product, please complete and mail this card or visit our on-line registration at www.website.com.

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NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES

BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 1234 ALEXANDRIA, VA
POSTAGE WILL BE PAID BY ADDRESSEE



MANUFACTURER'S NAME
 POST OFFICE BOX 0000
 ANYTOWN, ST 12345-6789




FIGURE 1 TO PART 1130 - FRONT OF REGISTRATION FORM

Model Name : Model Number : Manufacture Date :

www.website.com

Phone Number - Toll Free (if available) :

Tear off and mail this part.
Please print clearly in the spaces below.

Name

Mailing address

City **State** **Zip Code**

Telephone number

E-mail address

Model Name :

Model Number :

Manufacture Date :

FIGURE 2 TO PART 1130 - BACK OF REGISTRATION FORM